

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

APPEAL NO.134 OF 2006
IN
CHAMBER SUMMONS NO.1684 OF 2004
IN
SUIT NO.611 OF 2001

Messrs.Carona Limited
vs.
Burjor Sorabjee Sidhwa

Appellants

Respondent

Mr.Shyam Diwan, Senior Advocate with Mr.Bharat Vaishnava
i/b.M/s.Bharat Vaishnava & Co. for the appellants.

Mr.Girish Desai with Mr.Rajesh Shah for the respondent.

**CORAM : R. M. LODHA &
J.P. DEVADHAR,JJ.**

DATED : 8th March 2006

P.C.

Heard Mr.Shyam Diwan, the learned senior counsel
for the appellants and Mr.Girish Desai, the learned
counsel for the respondent.

2. The appeal is at the instance of the defendant
aggrieved by the order dated 20th December 2005 whereby
the plaintiff has been allowed to withdraw a sum of
Rs.30,000/- every month from the royalty deposited by
the defendant from the date of the chamber summons.

3. Having considered all facts and circumstances of the
case, we do not want to interfere with the order of the

learned Chamber Judge in so far as the plaintiff-respondent has been allowed to withdraw a sum of Rs.30,000/- from the deposit of royalty by the defendants. However, we are of the view that out of Rs.30,000/- that is allowed to be withdrawn by the plaintiff, Rs.15,000/- each month shall be withdrawn by the plaintiff unconditionally and the remaining Rs.15,000/- is permitted to be withdrawn on furnishing solvent surety or adequate security.

4. We record and accept the statement of the learned senior counsel for the appellant-defendant that the arrears of royalty shall be deposited by the defendant within three weeks from today and that royalty from the month of March 2006 and subsequent months shall be deposited every month on time as per the order dated 7th July 2004.

5. We, accordingly, dispose of this appeal by the following order:

- (i) The respondent (plaintiff) is entitled to withdraw at the rate of Rs.30,000/- every month from the date of the application out of the royalty deposited by the appellant (defendant) from the office of the Court Receiver.

(ii) The withdrawal at the rate of Rs.15,000/- for each month shall be unconditional and the withdrawal for the remaining Rs.15,000/- shall be on plaintiff's furnishing solvent surety or adequate security to the satisfaction of the Court Receiver. It will be open to the plaintiff to offer the subject property as security.

(iii) The appellant shall deposit the arrears of royalty within three weeks from today and shall continue to deposit monthly royalty as per the order dated 7th July 2004 in time.

. Certified copy expedited.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)